

Virginia Enterprise Zones

2008

**CPA Agreed Upon
Procedures Manual**



VIRGINIA DEPARTMENT OF HOUSING
AND COMMUNITY DEVELOPMENT
Partners for Better Communities

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ABOUT THIS DOCUMENT

This document provides instructions for CPA's performing the Agreed Upon Procedures outlined by the Department of Housing and Community Development. These procedures test and report on the assertion of a business or qualified zone investor as to their qualification to receive Job Creation Grants or Real Property Investment Grants. The findings from these procedures are compiled in the CPA Attestation Report. This report is a required application component for both the Job Creation Grant and Real Property Investment Grant.

Agreed upon procedures are provided in the first half of the document for the Job Creation Grants and in the second portion for the Real Property Investment Grants. In efforts to provide you with more user-friendly instructions, specific icons have been used throughout the manual. Frequently asked questions have been included within each grant section and are denoted by a question mark symbol (?) within a text box. Additionally, important definitions, guidelines, and reminders are also emphasized in highlighted text boxes. Lastly, for your convenience, key terms have been hyperlinked to their corresponding definitions in the glossary provided at the end of each grant section

Each respective grant section contains information regarding:

- An overview of the grant amount and eligibility criteria
- Required grant documentation
- The CPA's Attestation Responsibilities
- The applicant's responsibilities
- Purpose and step(s) for each procedure

Agreed Upon Procedures Engagement

An Agreed Upon Procedures Engagement outlines specific procedures performed on a subject matter whereby a CPA is engaged by a client to issue a report of findings. Distribution of the report based on such an engagement is limited to specific users (in this case, the applicant and DHCD). Guidance for the performance of such engagements is found in American Institute of Certified Public Accountants (AICPA) professional standards [AT Section 201](#).

Under the new Enterprise Zone Statute, applicants for the Real Property Investment Grant and Job Creation Grants must hire an independent CPA currently licensed in Virginia to perform the Agreed-Upon Procedures established by DHCD and to prepare an attestation report to be submitted to DHCD with the grant application materials by April 1, 2009.



How is an attestation different from an audit?

An *attestation* is the giving of an assurance by a CPA as to the reliability of information, both financial and non-financial. The American Institute of Certified Public Accountants (AICPA) has promulgated standards for such engagements, other than those involving audits of financial statements, in the "AT" section of professional standards.

An *audit* is the process by which a CPA is able to attest to the fairness of presentations of financial statements. An audit engagement is an attestation engagement, but one for which standards separate from other forms of attestation engagements have been promulgated by the AICPA (the "AU" section of professional standards).

CPA Attestation Report: Form Requirements

The findings on the Agreed Upon Procedures are to be compiled in the CPA Attestation Report Form. The form has been created to ensure that all CPAs are reporting on the procedure as written. The form and use of the form has the support of the VA society of CPAs. Please use the exact form and **do not** retype the procedures and submit your findings in your own word document. **The attestation that accompanies the application must be submitted on the appropriate DHCD Attestation Report Form or the application will be deemed incomplete.** Applications will have to be resubmitted with the correct form in order to be processed.

Attestation Report Forms for both grants are available for downloading at <https://dmz1.dhcd.virginia.gov/EZApplication/>.

Additionally, any reports submitted that do not state the findings for each procedure are also considered incomplete. In the AICPA professional standards set forth in [Section AT 201.25](#), it states that the “practitioner should report all findings from the application of the agreed-upon procedures.” Furthermore, [Section AT 201.26](#) specifies that “a practitioner should avoid vague or ambiguous language in reporting findings.” Please see the examples of appropriate and inappropriate descriptions of findings within [Section AT 201.26](#).

Based on the professional standards set forth, providing one’s initials by each procedure does not constitute an adequate description of findings. In instances where no findings are reported or only the CPA’s initials are listed as the findings, the report will be deemed incomplete and the application will not be processed (until the report is re-submitted).

Submittal Requirements

The CPA Attestation Report is required and must be submitted with all other application materials by April 1, 2009. Firms and zone investors are required to submit electronic applications. Firms and zone investors will receive email confirmations to keep the applicant informed throughout the submittal process and to bring any submittal issues to the applicant’s attention prior to the applicable deadline.

The online applications must be submitted to DHCD by no later than April 1, 2009 (EST). When applications are submitted electronically, the **required signed hard copy and all other referenced materials must also be submitted by the April 1st deadline.** Applicants are able to print the completed application as part of the online submittal process, sign, add any additional required documentation, and mail to DHCD.

Applicants should send original application materials via United States Postal Service certified mail, return receipt requested and postmarked no later than April 1st, ship using UPS, Fed Ex or other services where shipping can be tracked with a shipped date no later than April 1st or hand deliver by the close of business on April 1st to DHCD.

Any applications submitted without the required CPA Attestation Report Form or those submitted after the April 1st deadline (but before May 15, 2009) will be considered a **late application**. Such applications are held until DHCD determines that funds remain and it will not have to prorate grant awards. At such time, DHCD will review and process such applications on a first-come, first served basis. For your information, all grant requests have been pro-rated in the past two years.

DHCD reviews all applications for completeness. The timeline for the Job Creation Grant and Real Property Investment Grant application review is as follows:

2008 Enterprise Zone Grant Timeline	
▪	April 1st —Applicant submits application materials to DHCD
▪	May 15th —DHCD notifies applicant of deficiencies
▪	June 1st —Applicant resubmits, if necessary and deficiencies have been resolved
▪	June 30th —DHCD notifies applicant of qualification
▪	July —Virginia Department of Treasury sends Enterprise Zone Grant check to applicant

If you have any questions, please contact:





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JOB CREATION GRANTS

The chart below summarizes the eligibility criteria and grant amount available for the Job Creation Grants. The section within this portion of the document includes the following information:

- The CPA attesting to the Job Creation Grant Materials
- Required documentation to apply for the grant
- The CPA's Attestation and businesses' responsibilities
- Description of the three Agreed Upon Procedures for Job Creation Grant

Job Creation Grants are based on net new permanent full-time job creation exceeding a four-job threshold. Grant eligible positions are those positions over the four-job threshold with wages of at least 175% of the federal minimum wage and the availability of health benefits. Firms can receive grants for up to 350 grant eligible positions per year.*

 Grant Restrictions	<p>The following are prohibited from applying for the Job Creation Grants:</p> <ul style="list-style-type: none"> ▪ Units of local, state, or federal government ▪ Personal service, food and beverage, and retail positions (<i>as defined in Glossary</i>) ▪ Non-profits, other than those classified as NAICS 813910 and 813920
 Eligibility Requirements	<ul style="list-style-type: none"> ▪ The business firm must be located in a Virginia Enterprise Zone. ▪ Business firms must create at least four net new permanent full-time positions over the base calendar year. ▪ The net new permanent full-time positions created over the four-job threshold must meet the wage (at least 175% of federal minimum wage*) and health benefits requirement (at least 50% of employee's premium is paid by the employer).
 Term	<ul style="list-style-type: none"> ▪ Grants are available for a five-consecutive year qualification period. ▪ To be eligible for Job Creation Grants in years two through five of the grant cycle, a business firm must maintain or increase its eligible permanent full-time positions (above the four-job threshold) established during the first grant year. ▪ Firms can continue to receive grants for any net new permanent full time positions which meet the wage and health benefits requirements and are created over the base year. ▪ Firms may apply for a subsequent five-year term, given they meet the grant eligibility requirements. This first year this will be possible is 2010.
 Amount¹	<p>The dollar amount of the Job Creation Grants is determined by the wages of the grant eligible positions. Grants are available in amounts of:</p> <ul style="list-style-type: none"> ▪ Up to \$500 per grant eligible position filled by an employee earning at least 175% of the federal minimum wage* with health benefits. ▪ Up to \$800 per grant eligible position filled by an employee earning 200% of the federal minimum wage* with health benefits.

* As of July 24, 2008, Congress increased the federal minimum wage from \$5.85 per hour to \$6.55 per hour. In order to be eligible for the Job Creation Grant given this increase, net new positions must receive at least \$11.46/hour to be eligible for the \$500

¹ Grant amount is subject to pro-ration should requests exceed grant funds allocated.

grant and at least \$13.10/hour to be eligible for the \$800 grant. Since this change was made in the middle of the year, the grant eligible positions will be calculated based on the [full months](#) the positions were employed at the previous wage requirement (at least \$10.24/hour) and the full months employed at the new wage requirement (at least \$11.46/hour). This change is reflected in the procedures described in this section of the manual.

CPA Attesting to Job Creation Grant Materials

As required by statute, a CPA must perform the [agreed upon procedures](#) outlined by DHCD. The CPA performing these procedures must be [independent](#) of the company and currently licensed in the State of Virginia. This CPA will test certain documentation and calculations used to prepare the Job Creation Grant application and will report on these procedures and their findings in the attestation report signed and submitted by the CPA on behalf of their client. The following pages outline the step-by-step reporting requirements for the wage-based job creation grants.

The Attestation Report Form for the Job Creation Grant and a sample engagement letter are available online at <https://dmz1.dhcd.virginia.gov/EZApplication/>.



Can a business firm's CPA prepare the application and accompanying materials (JCG worksheet) and attest?

Professional standards (AICPA) and those of the Government Accountability Office (GAO) provide that an auditor cannot audit his or her own work but recognize that an auditor can provide assistance provided the audit organization does not make management decisions or perform management functions. The decision to follow any advice provided remains with management of the audited entity.

Required JCG Documentation for All Applicants

1. Completed Form EZ-JCG for a business firm (excluding retail, food/beverage, personal service businesses)
2. JCG worksheet for all permanent full time positions in the base year and grant year
3. Completed and signed W-9 form required for grant payment

Record Keeping Requirements

The Department may at any time review qualified zone businesses records related to qualification under this section to assure that information provided in the application process is accurate. Qualified zone businesses shall maintain all documentation regarding qualification for enterprise zone job creation grants for at least one year after the final year of their five-year grant period. Job creation grants that do not have adequate documentation regarding permanent full-time positions, wage rates and provision of health benefits may be subject to repayment by the qualified zone business.

CPA's Attestation Responsibilities

The attestation procedures outlined below for the Job Creation Grants are structured in such a way as to ensure:

- The company is not a [personal service](#), [food or beverage](#), or [retail establishment](#) as such businesses are prohibited from applying for the grant.
- The company only includes permanent full time positions in the base year and grant year on the JCG worksheet and that the wage rates for the net new equivalent PFTP in the grant year are accurately indicated;
- And, the employment dates and wage rates for the positions listed on the worksheets are accurate and identical to the information on payroll and personnel documentation.

Businesses' Responsibilities

The business will provide the CPA with the following:

- A JCG worksheet of all employees filling permanent full-time positions in the base year (in alphabetical order) followed by all employees filling permanent full-time positions in the grant year (in alphabetical order) that the business has identified
- For each of the employees listed on the JCG worksheet, the employees' I-9s and paystub/payroll record information showing the first work date and the last work date in the base year and grant year in the permanent full time position where applicable
- Health benefits documentation for the CPA to verify as part of the attestation.

The business firm representative's signature on the JCG worksheet and EZ-JCG certifies that net new permanent full time positions to Virginia have been created that meet the wage and health benefit requirements and are not retail, personal service, or food/beverage or churned positions. In addition the signature certifies that the application is complete and the applicant is not a unit of local, state, or federal government.

Job Creation Grant Agreed Upon Procedures

The following sections outline the three Agreed Upon Procedures for the Job Creation Grant.

Procedure 1 - Attestation Regarding Prohibited Positions

Purpose

To ensure that the employees listed for the base year and/or grant year on the worksheet do not fill [retail](#), [food/beverage](#), or [personal service](#) positions.

Positions with the following NAICS codes are NOT grant eligible (NAICS - 441-454; 722; 812) and should not be included on the JCG worksheet or the Form EZ-JCG.



A business is not a retail business, but has retail positions. Is this firm eligible for the Job Creation Grants?

If the business firm is not a retail business, only positions that are not retail, food/beverage, or personal service can be included in the JCG Worksheet for the purposes of qualifying for the Job Creation Grant.

See the Job Creation Grant Instruction Manual for a listing of NAICS codes with each code's corresponding subsector description.

Procedure 1

The CPA will review that the NAICS code listed on the Form EZ-JCG (Part I, line item 5) to attest that the NAICS code listed on the Form EZ-JCG is other than 441-454, 722, or 812.

Procedure 2- Attestation of Permanent Full Time Positions on JCG Worksheet

Purpose

To ensure that the employment information listed for the base year and/or grant year on the worksheet is accurate based on the I-9 and first and last payroll records for Employees Filling Permanent Full-time positions (EF- PFTP) during the base year and/or grant year.

The following sampling procedure should be used in establishing a sample of permanent full time positions:

Rules for Sampling

Firms with 100 or fewer Employees Filling Permanent Full-time Positions (EF-PFTP)

The CPA will review a random sample of the documentation of 20 EF-PFTP on the worksheet and reconcile the start/end work dates for such employees with the information provided on payroll records using the random sampling techniques established below. If there are 20 or less EF-PFTP, the documentation and worksheet calculations for all employees will be reviewed.

Firms with More than 100 Employees Filling Permanent Full-time Positions (EF-PFTP)

For firms with more than 100 EF-PFTP on the worksheet, the CPA will review a random sampling of payroll records and health benefit documentation for 20 percent of all employees shown. The CPA will reconcile the start/end work dates for such employees with the information provided on payroll records using the random sampling techniques established below.

Random Sampling

The CPA will review a random sampling of the below information (A-C) for the greater of 20 or 20 percent of employees listed on the worksheet based on the above criteria. The random sampling will be based on the use of a table of random numbers. The CPA will first assign each case on the population list (each employee listed on the JCG worksheet) a unique identification number. Then, the CPA will select cases for the 20 or 20 percent sample when their identification number corresponds to the number chosen from the table. Please indicate in Column B of the JCG worksheet which employees have been selected to be sampled. The CPA will stop selecting cases when they have reached the desired sample size. If an identification number is selected more than once, the CPA will ignore the repeats.

Non-reconcilable errors

Should the CPA find any non-reconcilable errors (any unexplained difference between information on documentation provided and what is listed for that employee on the worksheet) in the sample population then the CPA should continuously select another 20 percent sample from the original population until the first subsequent sample produces no non-reconcilable errors. The CPA, in the attestation report, shall submit by name

those non-reconcilable errors found in the procedure. If the client chooses to revise the worksheet and application to remove the non-reconcilable item(s), the CPA shall verify that the revised worksheet has omitted the non-reconcilable item(s) and that there are no other resulting changes from the original worksheet.

Procedure 2

Using the sampling technique above, the CPA will review the JCG worksheet for base and/or grant year employment and attest that for each sampled employee listed on the worksheet, the required documentation (I-9 and first payroll and last payroll for base year and/or grant year, and the health benefits enrollment information) has been pulled/provided by the company. **In the case of a business in a qualification**

year other than its first year, the sample should only include the grant year information, not the base year information. The base year employment should only be sampled in grant year one along with the grant year employment.



How do I account for the increase in the federal minimum wage when reviewing the documentation for the sample of employees?

Given that the federal minimum wage was increased in the middle of the 2008 calendar year (July 24, 2008), the Job Creation Grant worksheet has been significantly simplified to ease the application process for the business firm. The revised worksheet only requests essential employee information (name and last four digits of the Social Security Number), start and end dates of employment, and the hourly wage rates. Based on the information entered, the worksheet has formulas in place to apportion the full months worked at the eligible wage rate for the net new grant employees. In previous years, CPAs attested to whether the net new employees earned at least 175% of the federal minimum wage. With formulas in place to determine this criterion, CPAs are now only required to attest to the work dates, wage rates, and health benefits information for the permanent full-time employees.

A. I-9:

The CPA will review the sample population's I-9s to attest that they include the base year and/or grant year employee's name, social security number, and address. The date this I-9 was signed by the employee filling the permanent full-time position represents their "hire date" for the permanent full time position for the purposes of this grant, unless the I-9 was signed prior to the actual hire date (required instead as part of the job application for example). In such cases, the I-9 date in conjunction with supporting employee payroll represents their "hire date" for the permanent full time position for the purposes of this grant.

B. Base year and/or grant year employee payroll records (first and last payroll records for the time the employee worked in the base year and/or grant year)

The CPA will:

1. Reconcile the employee's name and employee number (where assigned) with the information included on the worksheet.
2. Review these documents to attest that the employee was working during the

Employees should only be listed once on the JCG worksheet UNLESS:

- They have worked two or more separate times in a single base or grant year.
- The employee's wage fluctuated during the grant year.

In order to get the full number of months that the employee worked at the position, you will need to include one row, showing the start date and end date, for each separate employment period (or wage fluctuation) based on the employee's I-9 or payroll record documentation.

Since the JCG worksheet is equipped with formulas to apportion the eligible months employees were earning at least or above 175% of the federal minimum wage, please note that employees should only be listed more than once if the business firm increased/decreased the employee's wage rate (irrespective of the increase in the federal minimum wage).

firm's selected base year and/or grant year and that this information is accurately indicated on the worksheet by confirming the first work date within base year and/or grant year and last work date within base year and/or grant year correspond to those dates listed for the employee on the worksheet.

3. Compare the [wage rates](#) as indicated on the first and last payroll records for those sampled employees hired in the grant year (i.e. net new employees) with the specific wage rates listed in column X of the JCG Worksheet to attest that wage rates listed on the worksheet accurately reflects what the employees earned. In the case of wage fluctuations, the CPA will review the worksheet to verify that when an employee's wage rate changes, the new wage rate is accurately listed on a separate row in the worksheet for employees hired in the grant year.
4. For those sampled employees with information in column(s) Z, AA, AB and/or AC, the CPA will attest that such employees were hired after the base year and that the position is permanent full-time.
5. If the sampled employee's wages were calculated (i.e. converted from salary to hourly), the CPA will attest that the calculation was correct and will show the calculation in the report.

C. [Health benefits](#) information

1. The CPA will review the signed health benefits enrollment agreement and other insurance coverage material documenting that the firm pays at least 50 percent of the cost of the employee's health insurance premium for the sampled employees for which Column W indicates they were offered/received health benefits and for which wages are listed in Column X (as such employees are net new over the base year employment).
2. For those employees filling grant eligible PFTP that have declined health insurance coverage, the CPA will review a copy of each grant eligible employee's signed waiver of health benefits to verify that health benefits have been offered.
3. For those firms that self-insure their employees' medical claims, copies of the firm's policy's signed by the EF-PFTP (with wages listed in Column X) is acceptable documentation.



A business does not make health insurance benefits available for new permanent full-time positions until after a 90-day employment period. How does such a firm need to document this on the JCG worksheet?

The initial 90 day employment period during which health benefits were not available **can** be included in the worksheet. The firm should list the first date and last date the employee filling the net new permanent full-time position met the wage requirement for those employees whose health benefits were effective after a specified employment period, provided they were offered by the start date.

Procedure 3 - Attestation of New Job Creation and Grant Eligible Employees

Purpose

To ensure that qualification information on Form EZ-JCG regarding the business firm's new job creation and number of [grant eligible](#) employees corresponds with the values listed on the JCG worksheet.

Procedure 3

The CPA will review the qualification information on Part II of Form EZ-JCG and attest to whether the information entered on Part II, Lines 4.A-B and Lines 5. E-F corresponds with the auto-calculated values in the following cells of second sheet of the JCG worksheet: B3, B4, B6, and B7 (respectively).



Job Creation Grant Application Submission Materials

After completing the three procedures pertaining to the Job Creation Grant, the findings are to be compiled in the CPA Attestation Report Form. The report must be submitted with the remaining application materials. To apply for the Job Creation Grant, the following materials must be submitted:

- W-9 Form
- Form EZ-JCG
- CPA Attestation Report Form



Can a CPA submit the application online for their client?

A CPA can enter in the information online so long as they are performing solely a clerical function and not making any management decisions.

One of the documents that DHCD requires that the qualified zone business maintain, but not submit, is the JCG Worksheet. The JCG Worksheet must be used to complete the application and the electronic version along with a hard copy print out must be kept on file with other grant request documentation. Job creation grants that do not have adequate documentation regarding permanent full-time positions, wage rates and provision of health benefits may be subject to repayment by the qualified zone business.

Form EZ-JCG is required to be submitted online. This year, firms will receive email confirmations to keep the applicant informed throughout the submittal process and to bring any submittal issues to the applicant's attention prior to the applicable deadline. The online applications must be submitted to DHCD by no later than April 1, 2009 (EST). When applications are submitted electronically, the **required signed hard copy and all other referenced materials must also be submitted by the April 1st deadline**. Applicants are able to print the completed application as part of the online submittal process, sign, add any additional required documentation, and mail to DHCD.

All the listed application materials are due to DHCD by **April 1, 2009**. If April 1st falls on a weekend or holiday, applications are due the next business day. Send original application materials via United States Postal Service certified mail, return receipt requested and postmarked no later than April 1st, ship using UPS, Fed Ex or other services where shipping can be tracked with a shipped date no later than April 1st or hand deliver by the close of business on April 1st to DHCD.

Any applications submitted without the required CPA Attestation Report or those submitted after April 1st (but before May 15th) will be held until the Department determines that funds remain and it will not have to pro-rate grant awards. At such time, the Department will review and process such applications on a first-come, first-serve basis.

Submittal of Multiple Applications

If submitting more than one application (for example, a Job Creation Grant and Real Property Investment Grant application), each grant application and required materials must be sent in **separately** via certified mail, return receipt requested. Due to the high volume of grant applicants, DHCD cannot guarantee proof of the receipt of each application when multiple applications are submitted together unless a cover letter listing each submittal is included in the package.

GLOSSARY: DEFINITIONS FOR JOB CREATION GRANTS

Agreed upon procedures engagement:

Means an engagement between an independent certified public accountant licensed by the Commonwealth and the business or qualified zone investor seeking to qualify for Enterprise Zone incentive grants whereby the independent certified public accountant, using procedures specified by the Department, will test and report on the assertion of the business or qualified zone investor as to their qualification to receive the Enterprise Zone incentive pursuant to 59.1-549 of the Code of Virginia.

Base year:

Means either of the two calendar years immediately preceding a business firm's first year of grant eligibility, at the choice of the business firm.

Business firm:

Means any corporation, partnership, electing small business (subchapter S) corporation, limited liability company, or sole proprietorship authorized to do business in the Commonwealth of Virginia. This shall also include business and professional organizations and associations whose classification falls under sectors 813910 and 813910 of the North American Industry Classification System (NAICS) and that generate the majority of their revenue from customers outside the Commonwealth.

Common control:

Means such firms as defined by Internal Revenue Code § 52(b).

Federal minimum wage:

Means the minimum wage standard as currently defined by the United States Department of Labor in the Fair Labor Standards Act, 29, U.S.C. 201 et seq. Such definition applies to permanent full time employees paid on an hourly or wage basis.

Food and beverage service:

Means a business whose classification falls under subsector 722 Food Services and Drinking Places of North American Industry Classification Systems (NAICS).

Full month:

Means the number of days that the permanent full time position must be filled in order to count in the calculation of the grant amount. A full month is equivalent to 30.416666 days.

Grant eligible position:

Means a new permanent full time position created above the threshold number at an eligible business firm. Positions in retail, local service or food and beverage service shall not be grant eligible positions.

Health benefits:

Means that at a minimum medical insurance is offered to employees and the employer shall offer to pay at least 50 percent of the cost of the premium at the time of employment and annually thereafter.

Independent certified public accountant:

Means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for grants under this Program.

Local zone administrator:

Means the chief executive of the city or county, in which an enterprise zone is located, or his or her designee. Pursuant to enterprise zone designations made prior to July 1, 2005, this shall include towns.

Permanent full-time position:

Means a job of indefinite duration at a business firm located in an enterprise zone, requiring the employee to report to work within the enterprise zone; and requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of a business firm's operation, which a normal year must consist of 48 weeks, (ii) a minimum of 35 hours of an employee's time per week for the portion of the calendar year in which the employee was initially hired for or transferred to the business firm, or (iii) a minimum of 1,680 hours per year. Such positions shall not include: (i) seasonal, temporary, or contract positions, (ii) a position created when a job function is shifted from an existing location in the Commonwealth to a business firm located with an enterprise zone, (iii) any position that previously existed in the Commonwealth, or (iv) positions created by a business that is simultaneously closing facilities in other areas of the Commonwealth.

Personal Service:

Means such positions as classified under NAICS 812.

Regular basis:

Means at least once a month as related to "report to work" requirements for the wage-based job creation grants.

Related party:

Means those as defined by Internal Revenue Code § 267(b).

Report to work:

Means that the employee filling a permanent full time position reports to the business' zone establishment on a regular basis.

Retail:

Means a business whose classification falls under sector 44-45 Retail Trade of the North American Industry Classification System (NAICS).

Seasonal employee:

Means any employee who normally works on a full time basis and whose customary annual employment is less than nine months. For example, individuals hired by a CPA firm during the tax return season in order to process returns and who work full-time over a three month period are seasonal employees.

Subsequent base year:

Means the base year for calculating the number of grant eligible positions in a second or subsequent five consecutive calendar year grant period. If a second or subsequent five-year grant period is requested within two years after the previous five-year grant period, the subsequent base year will be the last grant year. The calculation of this subsequent base year employment will be determined by the number of permanent full-time positions in the preceding base year, plus the number of threshold positions, plus the number of grant eligible positions in the final year of the previous grant period. If a business firm applies for subsequent five consecutive calendar year grant periods beyond the two years immediately following the completion of the previous five-year grant period, the business firm shall use one of the two preceding calendar years as subsequent base year, at the choice of the business firm.

Threshold number:

Means an increase of four permanent full time positions over the number of permanent full time positions in the base year or subsequent base year.

Transferred employee:

Means an employee of a firm in Virginia that is relocated to an enterprise zone facility owned or operated by that firm.

Wage rate:





Means the hourly wage paid to an employee inclusive of shift premiums and commissions. In the case of salaried employees, the hourly wage rate shall be determined by dividing the annual salary, inclusive of shift premiums and commissions by 1,680 hours. Bonuses, overtime, and tips are not to be included in the determination of wage rate.

REAL PROPERTY INVESTMENT GRANTS

The chart below summarizes the eligibility criteria and grant amount available for the Real Property Investment Grants. The section within this portion of the document includes the following information:

- The CPA attesting to the Real Property Investment Grant Materials
- Required documentation to apply for the grant
- The CPA's Attestation and zone investor's responsibilities
- Description of the six Agreed Upon Procedures for Real Property Investment Grant

Real Property Investment Grants are available for investments made to industrial, commercial, or mixed-use real property located in an Enterprise Zone. Grants are available to qualified zone investors in amounts up to 20% of the total amount of the qualified real property investment, not to exceed \$250,000 per building or facility within a five-year period.

 Grant Restrictions	<p>The following are prohibited from applying for the Real Property Investment Grants:</p> <ul style="list-style-type: none"> ▪ Units of local, state, or federal government -typically have FEIN beginning with 54600
 Eligibility Requirements	<ul style="list-style-type: none"> ▪ The facility/building must be located in a Virginia Enterprise Zone. ▪ The building or facility must be commercial, industrial, or mixed-use. <ul style="list-style-type: none"> ○ Mixed-use is defined as a building incorporating residential uses in which a minimum of 30% of the useable floor space will be devoted to commercial, office, or industrial use. ▪ For the rehabilitation or expansion of an existing structure, the zone investor must spend at least \$50,000 in qualified real property investments. ▪ For new construction, the zone investor must spend at least \$250,000 in qualified real property investments.
 Term	<ul style="list-style-type: none"> ▪ Grants may not exceed \$250,000 per building or facility in a five-consecutive year period.
 Amount²	<p>The dollar amount of the Real Property Investment Grant is determined by the amount spent on qualified real property investments and is capped per building or facility over a five-year term based on the cumulative level of investment.</p> <ul style="list-style-type: none"> ▪ Grants are available in amounts up to 20% of the qualified real property investment and capped based on the following thresholds: <ul style="list-style-type: none"> ○ Up to \$125,000 per building/facility for qualifying real property investments less than \$5 million. ○ Up to \$250,000 per building/facility for qualifying real property investments of \$5 million or more.

² Grant amount is subject to pro-ration should requests exceed grant funds allocated.

CPA Attesting to Real Property Investment Grant Materials

As required by statute, a CPA must perform the [agreed upon procedures](#) outlined by DHCD. The CPA performing these procedures must be [independent](#) of the company and currently licensed in the State of Virginia. This CPA will test certain documentation and calculations used to prepare the Real Property Investment Grant application and will report on these procedures and their findings in the attestation report signed and submitted by the CPA on behalf of their client. The following pages outline the step-by-step reporting requirements for the Real Property Investment Grant.



Can a business firm's CPA prepare the application and accompanying materials (schedules) and attest?

Professional standards (AICPA) and those of the Government Accountability Office (GAO) provide that an auditor cannot audit his or her own work but recognize that an auditor can provide assistance provided the audit organization does not make management decisions or perform management functions. The decision to follow any advice provided remains with management of the audited entity.

The Attestation Report Form for the Real Property Investment Grant and a sample engagement letter are available online at <https://dmz1.dhcd.virginia.gov/EZApplication/>.

Required RPIG Documentation for All Applicants

1. **Form EZ-RPIG** (hereafter referred to as the RPIG form) is complete, all applicable questions are answered, and the form has been signed and dated.
2. **Final CO/final building inspection/3rd party inspection** - with same physical address as referenced on application and approval/issuance date is within current grant year.
3. For **mixed use buildings** only, there is a **supplemental form** to indicate the [useable floor space](#) in the building and by use. The form will be completed by the individual/firm that prepared the measured drawings/plans submitted to the local building official to obtain necessary permits for improvements to the mixed use building. The useable floor space as documented on the measured drawings will be indicated on this form. The form would also include a statement to be signed by the preparer of the measured drawings. Stamped and sealed measured drawings will be provided to DHCD at their request and if they are not provided at DHCD's request, the applicant may be denied a grant.
4. For buildings with **multiple owners**, there is a **supplemental form** to indicate the useable floor space occupied by each owner. The applicant completing the form will need to obtain information on the total building square footage if not specified in the closing documents (condo owner). The form will be completed to include coordination with all other owner(s) of space in the building otherwise DHCD will use proration procedures to determine the prorated grant amount based on the level of investment made to the building and the percentage of the useable floor space owned by the applicant.
5. For buildings with **one or more tenants**, there is a **supplemental form** to indicate the useable floor space occupied by each tenant. The applicant completing the form will need to contact the building owner/management company to obtain

information on the total building square footage if not specified in the current lease agreement (tenant). The form will be completed to include consent of the building owner and coordination with all other tenants(s) of space in the building otherwise DHCD will use pro-ration procedures to determine the prorated grant amount based on the level of investment made to the building and the percentage of the useable floor space leased by the applicant.

- *Previously, a separate itemized schedule listing the category of construction work and the corresponding dollar amount was also required. This component is still a required part of the Real Property Investment Grant application and has been incorporated into the main form, EZ-RPIG and includes an auto-calculation feature. Applicants are no longer required to submit a separate schedule.*

Record Keeping Requirements

The Department may at any time review qualified zone investors records related to qualification to assure that information provided in the application process is accurate. Qualified zone investors shall maintain all documentation regarding qualification for enterprise zone incentive grants for a minimum of three years following the receipt of any grant. Real property investment grants that do not have adequate documentation regarding qualified real property investments may be subject to repayment by the qualified zone investor.

CPA's Attestation Responsibilities

The attestation procedures outlined below for the Real Property Investment Grant are structured in such a way as to ensure:

- The EZ-RPIG Form and all other required attachments are complete;
- The zone investor only includes cost categories qualifying as qualified real property investment and that costs listed on schedule on Part II of Form EZ-RPIG were capitalized by the zone investor;
- The real property for which the qualified real property investments were made has been placed in service.
- In the case of mixed use buildings, the square footage information and use is accurately indicated on the supplemental form;
- And, in the case of zone investors owning a space within a building or zone investors applying as tenants, the square footage information is accurately indicated on the supplemental form and the grant application process has been coordinated with all other owners/tenants within the building. *For more information regarding the required steps of coordination, see page 8 of the Real Property Investment Grant Instruction Manual.*

Zone Investors' Responsibilities

The zone investor will provide the CPA with the following:

- The Real Property Investment Grant Form EZ-RPIG and all other required attachments
- All the invoices/receipts for qualified real property investments capitalized by the zone investor
- The final [placed in service documentation](#) issued by the locality for the completed qualified real property investments
- For [mixed-use](#) buildings, the measured drawings for the building indicating the square footage and use of the building
- For zone investors applying as owners of space within a building, the closing documents or deed of trust indicating the building's square footage information
- For zone investors applying as tenants, the current lease agreement indicating the building's square footage

Real Property Investment Grant Agreed Upon Procedures

The following sections outline the six Agreed Upon Procedures for the Real Property Investment Grant.

Procedure 1 - Attestation of Completed Application

Purpose

To ensure that applications received by DHCD are accurate, complete and accompanied by the required attachments listed below.

Procedure 1

The CPA will attest that the Real Property Investment Grant Form EZ-RPIG and all required attachments have been prepared in the prescribed format and Form EZ-RPIG contains the signed declaration. Required documentation is as follows:

1. Completed and signed Form EZ-RPIG
2. Completed W-9
3. Copy of final CO or final building inspection or in cases where no permits are required, a letter from the building official on the locality's letterhead stating such in addition to a copy of the third party inspection report indicating the work was complete
4. Cover letter explaining any discrepancy in the name of the applicant and the placed in service document (if applicable)
5. Completed, signed, and notarized supplemental form for owners of space in building (if applicable)
6. Completed, signed, and notarized supplemental form for a tenant in a building (if applicable)
7. Completed, signed and seal/notarized supplemental form for a mixed-use building (if applicable).



If a zone investor owns the entire building or facility, do they need to complete the supplemental form EZ-RPIG Multi-owner or Tenant Form?

No, the zone investor only needs to fill out the Form EZ-RPIG.

Procedure 2 - Attestation of Qualified Real Property Investments

Purpose

- To first ensure that only qualified real property investments are listed on the schedule (Part II of Form EZ-RPIG).
- Secondly, to ensure that the amount and type of qualified real property investments listed on the schedule accurately reflects the amount and type of qualified real property investments made by the qualified zone investor based on review and reconciliation with information on the capital (asset) account books and on the invoices, contracts, and receipts.
- Lastly, the intention of this attestation is to ensure that the total cost of qualified real property investments indicated on the invoices, contracts, or receipts equals the amount of qualified real property investments incurred by the qualified zone investor.

Procedure 2

- A. The CPA will attest that the schedule of [qualified real property investments](#) (Part II of Form EZ-RPIG) includes those cost categories qualifying for the Enterprise Zone “qualified real property investments” per 59.1-548A of the Code of Virginia which are defined as “the amount properly chargeable to a capital account for improvements to rehabilitate, expand or construct depreciable real property placed in service during the calendar year within an enterprise zone provided that the total amount of such improvements equals or exceeds (i) \$50,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$250,000 with respect to a single building or a facility in the case of new construction. Qualified real property investments include expenditures associated with (a) any exterior, interior, structural, mechanical or electrical improvements necessary to construct, expand or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. Qualified real property investments shall include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup.” In the case of cost categories listed on the schedule that include more than one type of work (such as drywall and demolition), the CPA will obtain a break down of the work included in such category and verify that all cost categories qualify as qualified real property investments. The CPA will note in the attestation report any items he or she is uncertain if such items qualify as real property investments, with the corresponding dollar amount, in the report. The CPA will note in the attestation report the **exact amount of these qualified real property investments** and these must match the amounts submitted on the electronic and hard copy of the RPIG form.
- B. The CPA will attest that the items and costs listed on the schedule were properly charged to the capital (asset) account. Any investments/items that have been expensed cannot be included on the schedule of qualified real property investment. The CPA will review the schedule for any items that are not charged to the capital account. In cases where not all qualified real property investments under the final CO charged to the capital account have been paid for, in order to count those qualified real property investments, a charge to a capital account with

a corresponding recorded entry to a liability account and proof of subsequent payment thereof within 60 days of the calendar year end is satisfactory proof of a properly recorded charge to a capital account at year end. In the case of cash basis zone investors' items must be actually paid for by the end of the calendar year.

- C. Then, the CPA will review 100 percent of the invoices/receipts that correspond to the dollar value of the items listed on the schedule to attest that they were properly chargeable to the capital (asset) account under generally accepted accounting principles or another recognized basis of accounting.

Procedure 3 - Attestation of Placed in Service Documentation

Purpose

The RPIG is performance based. The qualified real property investments must be complete and up to code as evidenced by the "placed in service date" - the date of the final Certificate of Occupancy (CO), final building inspection, or **the date of the third party inspection report for the building**. The "placed in service date" dictates the calendar year in which the qualified zone investor applies for the grant. The purpose of the attestation procedures below is to ensure that the real property was "placed in service" during the grant year.

It is the client's responsibility to verify as soon **as possible** with his/her respective locality's Building Code office if **permits are needed for a rehabilitation or expansion project**.

Procedure 3

For All Types of Placed in Service Documentation

- A. The CPA will ensure that the placed in service document was final and no other documentation was issued or is pending (for example, a final building inspection issued before a CO) by verifying with the locality's Building Code Office the final documentation issued for the rehabilitation/expansion/new construction project for which a grant is being sought.
- B. In cases in which the final placed in service documentation issued was only for a portion of the building/facility (for example, a CO for the first floor in a four story building), the CPA will attest that the qualified real property investment amount listed on Part III, Line 3.A. of Form EZ-RPIG **only includes work completed to the portion of the building/facility**.

When Placed in Service Documentation is a Final CO

- A. The CPA will review the final Certificate of Occupancy (CO) for the building to attest that the physical address on the final CO is the same physical address as listed on the EZ-RPIG application.
- B. The CPA will review the final CO to attest that the date of issuance is within the grant year 2008.
- C. The CPA will review the final CO to attest that it was final not temporary or pending. Applications will not be accepted for work done under a temporary, pending, or failed CO.
- D. In the case of a shell CO, the CPA will review EZ-RPIG Part I Line 2 to attest that the zone investor is not a tenant of the building, unless they have signed a capital lease agreement and have coordinated with the building owner.

- E. The CPA will review the final CO to attest that the name listed on the final inspection matches the name of the qualified zone investor on EZ-RPIG Part I Line 1. If a different entity or individual is listed on the final CO, the CPA will attest that the required cover letter explaining the relationship between the applicant and the entity listed on the CO has been properly prepared and included with the application.

When Placed in Service Documentation is a Final Building Inspection

- A. In cases where the building was in continual service during the rehab/expansion work, or there was no change in use or final CO required, the CPA will review the final building inspection to attest that the physical address on the final building inspection is the same physical address as listed on the EZ-RPIG application.
- B. The CPA will review the final building inspection to attest that the date of issuance is within the grant year 2008.
- C. The CPA will review this final building inspection report document to attest that the final building inspection was approved/passed and not pending or temporary. Applications will not be accepted for work that has failed a final building inspection or is temporary or pending. In the cases in which localities issue multiple inspections for a project (building, electrical, mechanical, etc.), the CPA will review all the final inspection documents to attest that all the inspections were fully approved/passed in order for all the corresponding dollar amounts under each inspection to be included in the total qualified real property investment amount.
- D. The CPA will review the final building inspection to attest that the name listed on the final inspection matches the name of the qualified zone investor on EZ-RPIG Part I Line 1. If a different entity or individual is listed on the final building inspection, the CPA will attest that the required cover letter explaining the relationship between the applicant and the entity listed on the final inspection has been properly prepared and included with the application.

When Placed in Service Documentation is a 3^d Party Licensed Inspector's Report

- A. In cases where the locality did not require any building permits or other permits for ANY of the qualified real property investments listed on the schedule in Part II of the Form EZ-RPIG, the CPA will review an official letter from the building code official to attest that it references the physical



A zone investor received a final building inspection in November 2008. The inspector noticed that the handrails along the stairway were loose and documented that the inspection was approved *pending* the installation of the new handrails. The investor then ordered new handrails, had them installed, and received another final building inspection. The second final building inspection was conducted and approved in January 2009. Can the investor still apply for the 2008 calendar year?

No, since the final building inspection was fully approved in 2009, the zone investor would need to apply for the 2009 calendar year. This holds true even if the final building inspection was originally conducted in 2008. The inspection has to be completely passed with no pending items or remaining work.



What is the required format of the Third Party Inspector's Report?

Based on [Section 113.7.1](#) ("Third-Party Inspectors") of the Virginia's Uniform Statewide Building Code: "Each building official charged with the enforcement of the USBC shall have a *written policy* establishing the minimum acceptable qualifications for third-party inspectors. The policy shall include the format and time frame required for submission of reports, any prequalification or pre-approval requirements and any other requirements and procedures established by the building official."

Hence, the Third Party Inspector's Report must meet the guidelines set forth by the local jurisdiction in which the project was completed.

address and states that such permits are not required for the work. If such a letter is not provided, a final CO or final building inspection must be submitted.

- B. The CPA will review the licensed third party inspector's report to attest that the physical address on the report is the same physical address as listed on the EZ-RPIG.
- C. The CPA will review the third party inspection report to attest that the **date the report was issued was within the grant year 2008.**
- D. The CPA will review this report document to attest that all the work was complete in grant year 2008 with no outstanding or failed items reported.
- E. The CPA will review the licensed third party inspector's report to attest that the name listed on the report matches the name of the qualified zone investor on EZ-RPIG Part I Line 1. If a different entity or individual is listed on the report, the CPA will attest that the required cover letter explaining the relationship between the applicant and the entity listed on the licensed third party inspector's report has been properly prepared and included with the application.

Procedure 4 - Attestation of Square Footage for Mixed Use Buildings

Purpose

To ensure that the square footage and use information indicated on the measured drawings has been accurately indicated on the supplemental form for [mixed use](#) buildings.

Procedure 4

- A. The CPA will attest that if the applicant has indicated in Part I of Form EZ-RPIG on Line 5 “Mixed Use” that the applicant has provided the CPA with the supplemental form EZ-RPIG Mixed Use where Part II of EZ-RPIG Mixed Use has been “completed by the preparer (or the representative of the preparer) of the measured drawings/plans submitted to the locality” and that it contains the professional seal (AIA) or notarized signature of the preparer (or representative of the preparer) of the drawings, if not an architect.
In the case where no formal drawings were required by the locality or the zone investor prepared the measured drawings, a licensed third party architect, contractor, etc., must sign and seal the form certifying that at least 30 percent of the useable floor space in the building is devoted to commercial, industrial, or office use.
- B. The CPA will also attest that Part II Line 4 of the Form EZ-RPIG Mixed Use is mathematically correct based on information on Part II Lines 2a, 2b, and 3 and is at least 30 percent.

Procedure 5 - Attestation of Owners of Space in Building

Purpose

To ensure that the square footage information indicated in the closing documents or deed of trust is accurately indicated on the supplemental form for zone investors who own space in a building. The qualified zone investor must provide the CPA with access to the closing documents or the deed of trust. Lastly, to ensure that the zone investor has coordinated qualification with all other owners of the building, otherwise DHCD’s pro-ration procedures (described in the text box to the below) will be used to determine the grant amount.

For more information regarding the required steps of coordination for owners of space within a building, see page 19 of the Real Property Investment Grant Instruction Manual.

Procedure 5

- A. The CPA will attest that if the applicant has indicated in Part I of the EZ-RPIG Block 2 “owns space in a building (i.e. office condo)” that a supplemental EZ-RPIG multiple-owner form has been completed and signed by the

DHCD Multi-Tenant/Owner Pro-ration Formula

If there is **no coordination**, DHCD will implement its **pro-ration procedures** for such buildings based on the [useable floor](#) space leased/owned by the zone investor.

- The maximum grant amount available (either \$125,000 or \$250,000) will be determined by the cumulative qualified real property investments made to the building/facility within the consecutive five-year period.
- DHCD will then multiply the applicable grant cap by the percent of the building’s useable floor space for which the tenant has a lease or for which the owner has a deed of trust (or other closing documents).
- The grant can not exceed this amount or 20% of the applicant’s qualified real property investment (not exceeding the investment threshold cap), whichever is less.

applicant and the applicant has provided the CPA with documentation (deed of trust or other closing documents) validating the accuracy of Part II Lines 1 and 2 of the supplemental Multiple Owner Form.

- B. The CPA will attest that Part II Line 3 of the supplemental form is mathematically correct.
- C. The CPA will attest that information in Part III of the supplemental form agrees with the grant requested by the zone investor on EZ-RPIG Part III Line 3.B. indicating that either the grant request is being prorated or has been coordinated with all other owners of space in the building. In the case of coordination, the CPA will attest that all the building/facility's square footage **has been accounted for by the other owners' notarized signatures** such that the sum of the square feet listed in Part III Block C and the square footage listed in Part II Line 1 equals Part II Line 2 (building's total square footage).

Procedure 6 - Attestation of Tenant(s) in Building

Purpose

To ensure that the square footage information indicated in the current lease agreement is accurately indicated on the supplemental form for buildings with tenant(s). The qualified zone investor must provide the CPA with access to the lease. Lastly, the purpose is to ensure that the zone investor has obtained the consent of the building owner and has coordinated qualification with all other tenants in the building, otherwise DHCD's pro-ratio procedures (described in the text box on the previous page) will be used to determine the grant amount.

Procedure 6

- A. The CPA will attest that if the applicant has indicated in Part I of the EZ-RPIG Block 2 "tenant in building" that a supplemental EZ-RPIG Tenant form has been completed and signed by the applicant and the applicant has provided the CPA with documentation (valid lease) validating the accuracy of Part III Lines 1 and 2 of the supplemental Tenant Form.
- B. The CPA will attest that Part II of the supplemental Tenant Form has been completed whereby the owner of the building gives consent to the tenant to apply for the grant.
- C. The CPA will attest that Part III Line 3 of the supplemental form is mathematically correct.
- D. The CPA will attest that information in Part IV of the supplemental form agrees with the grant requested by the zone investor on EZ-RPIG Part III Line 3.B. indicating that either the grant request is being prorated or has been coordinated with all other owners/tenants within the building. In the case of coordination, the CPA will attest that all the building/facility's square footage **has been accounted for by the other owners' or tenants' notarized signatures** such that the sum of the square feet listed in Part IV Block C and the square footage listed in Part III Line 1 equals Part III Line 2 (building's total square footage).



Real Property Investment Grant Application Submission Materials

After completing the six procedures pertaining to the Real Property Investment Grant, the findings are to be compiled in the CPA Attestation Report Form. The report must be submitted with the remaining application materials. To apply for the Real Property Investment Grant, the following materials must be submitted:

- Final Certificate of Occupancy or other acceptable placed in service documentation
- Form EZ-RPIG
- W-9
- Form EZ-RPIG Multiple-owner, if applicable
- Form EZ-RPIG Tenant, if applicable
- Form EZ-RPIG Mixed Use, if applicable
- CPA Attestation Report Form

The Form EZ-RPIG is required to be submitted online. Zone investors will receive email confirmations to keep the applicant informed throughout the submittal process and to bring any submittal issues to the applicant's attention prior to the applicable deadline. The online applications must be submitted to DHCD by no later than April 1, 2009 (EST). When applications are submitted electronically, the **required signed hard copy and all other referenced materials must also be submitted by the April 1st deadline.** Applicants are able to print the completed application as part of the online submittal process, sign, add any additional required documentation, and mail to DHCD.



Can a CPA submit the application online for their client?

A CPA can enter in the information online so long as they are performing solely a clerical function and not making any management decisions.

All the listed application materials are due to DHCD by **April 1, 2009**. If April 1st falls on a weekend or holiday, applications are due the next business day. Send original application materials via United States Postal Service certified mail, return receipt requested and postmarked no later than April 1st, ship using UPS, Fed Ex or other services where shipping can be tracked with a shipped date no later than April 1st or hand deliver by the close of business on April 1st to DHCD.

Any applications submitted without the required CPA Attestation Report or those submitted after April 1st (but before May 15th) will be held until the Department determines that funds remain and it will not have to pro-rate grant awards. At such time, the Department will review and process such applications on a first-come, first-serve basis.

Submittal of Multiple Applications

If submitting more than one application (for example, a Job Creation Grant and Real Property Investment Grant application), each grant application and required materials must be sent in **separately** via certified mail, return receipt requested. Due to the high volume of grant applicants, DHCD cannot guarantee proof of the receipt of each application when multiple applications are submitted together unless a cover letter listing each submittal is included in the package.

GLOSSARY: DEFINITIONS FOR REAL PROPERTY INVESTMENT GRANT

Agreed upon procedures engagement:

Means an engagement between an independent certified public accountant licensed by the Commonwealth and the qualified zone investor seeking to qualify for Enterprise Zone incentive grants whereby the independent certified public accountant, using procedures specified by the Department, will test and report on the assertion of the qualified zone investor as to their qualification to receive the Enterprise Zone incentive pursuant to 59.1-549 of the Code of Virginia.

Building:

Means any construction meeting the commonly ordinarily accepted meaning of the term (building, *n*, a usually roofed and walled structure built for permanent use) where 1) areas separated by interior floors or other horizontal assemblies and 2) areas separated by fire walls or vertical assemblies shall not be construed to constitute separate buildings, irrespective of having separate addresses, ownership or tax assessment configurations, unless there is a property line contiguous with the fire wall or vertical assembly.

Capital lease:

Means a lease that meets one or more of the following criteria and as such is classified as a purchase by the lessee: the lease term is greater than 75 percent of the property's estimated economic life; the lease contains an option to purchase the property for less than fair market value; ownership of the property is transferred to the lessee at the end of the lease term; or the present value of the lease payments exceed 90 percent of the fair market value of the property.

Common control:

Means those firms as defined by Internal Revenue Code § 52(b).

Expansion:

Means an increase in square footage or the footprint of an existing nonresidential building via a shared wall, or enlargement of an existing room or floor plan. Pursuant to real property investment grants this includes mixed use buildings.

Facility:

Means a complex of buildings, co-located at a single physical location within an enterprise zone, all of which are necessary to facilitate the conduct of the same trade or business. This definition applies to new construction, as well as to the rehabilitation and expansion of existing structures.

Independent certified public accountant:

Means a public accountant certified and licensed by the Commonwealth of Virginia who is not an employee of the business firm seeking to qualify for state tax incentives and grants under this program.

Local zone administrator:

Means the chief executive of the city or county, in which an enterprise zone is located, or his or her designee. Pursuant to enterprise zone designations made prior to July 1, 2005, this shall include towns.

Mixed use:

Means a building incorporating residential uses in which a minimum of 30 percent of the useable floor space will be devoted to commercial, office or industrial use. Buildings where less than 30 percent of the useable floor space is devoted to commercial, office or industrial use shall be considered primarily residential in nature and shall not be eligible for a grant under 13 VAC 5-112-330. This definition applies only for the purpose of qualifying for Enterprise Zone incentives pursuant to 13 VAC 5-112-330.

New construction:

Means a single, nonresidential facility built on previously undeveloped land of a nonresidential structure built on the site/parcel of a previously razed structure with no remnants of the prior structure or physical connection to existing structures or outbuildings on the property. Pursuant to real property investment grants this shall include mixed use buildings.

Placed in service:

Means the final certificate of occupancy has been issued or the final building inspection has been approved by the local jurisdiction for real property improvements or real property investments, or in cases where a project does not require permits, the licensed third party inspector's report that the project was complete.

Qualified real property investment:

Means the amount properly chargeable to a capital account for improvements to rehabilitate, expand or construct depreciable real property placed in service during the calendar year within an enterprise zone provided that the total amount of such improvements equals or exceeds (i) \$50,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$250,000 with respect to a single building or a facility in the case of new construction. Qualified real property investments include expenditures associated with (a) any exterior, interior, structural, mechanical or electrical improvements necessary to construct, expand or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. Qualified real property investments shall include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup.

Qualified real property investment shall not include:

1. The cost of acquiring any real property or building.
2. Other acquisition costs including: (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, surveying, and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility connection or access fees; (viii) outbuildings; (ix) the cost of any well or septic or sewer system; and (x) roads.
3. The basis of any property: (i) for which a grant under this section was previously provided; (ii) for which a tax credit under § 59.1-280.1 of the Code of Virginia was previously granted; (iii) which was previously placed in service in Virginia by the qualified zone investor, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as

defined by Internal Revenue Code § 52 (b); or (iv) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Internal Revenue Code § 1014 (a).

Qualified zone investor:

Means an owner or tenant of real property located within an enterprise zone who expands, rehabilitates or constructs such real property for commercial, industrial or mixed use. In the case of a tenant, the amounts of qualified zone investment specified in this section shall relate to the proportion of the property for which the tenant holds a valid lease. Units of local, state and federal government or political subdivisions shall not be considered qualified zone investors.

Rehabilitation:

Means the alteration or renovation of all or part of an existing nonresidential building without an increase in square footage. Pursuant to real property investment grants this shall include mixed use building.

Same trade or business:

Means the operations of a single company or related companies or companies under common control.

Useable floor space:

Means all space in a building finished as appropriate to the use(s) of the building as represented in measured drawings. Unfinished basements, attics, and parking garages would not constitute useable floor space. Finished common areas such as stairwells and elevator shafts should be apportioned appropriately based on the majority use (51 percent) of that floor(s).